Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter	)	
	)	
Service Rules for the 698-746, 747-762	)	
and 777-792 MHz Bands	)	WT Docket No. 06-150)
	)	
Implementing a Nationwide,	)	PS Docket No. 06-229
Broadband, Interoperable Public	)	
Safety Network in the 700 MHz	)	
Band	)	

COMMENTS OF SPECTRUM ACQUISITIONS, INC.

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SUMMARY

- SAI strongly supports the FCC's articulated policy goals in the Second Further Notice of Proposed Rulemaking.

- However, SAI believes that an alternative approach that focuses both on 800 MHz and 700 MHz Band spectrum can achieve the Commission's policy goals more quickly and less expensively.

- Under such alternative approach Sprint Nextel Corp. would vacate all of its 800 MHz Band licenses and pay the difference between $2.5 billion and the amount it has expended to date with respect to 800 MHz rebanding; in exchange the Commission would allow Sprint Nextel Corp. to retain its nationwide 10 MHz license in the 1.9 GHz Band;

- The FCC would reorganize the Private Land Mobile Radio Band as follows—

  - 806-816 MHz/851-861 MHz: public safety—20 MHz instead of 15 MHz
  - 816-819 MHz/861-864 MHz: critical infrastructure, Business and Industrial/Land Transportation and site-licensed SMR; and
  - 819-824 MHz/864-869: EA-licensed SMR.

- Public safety would return 6 MHz of spectrum adjacent to the D Frequency Block.

- FCC would allocate expanded D Frequency Block (16 MHz) for commercial broadband wireless pursuant to public auction; auction proceeds would be transferred by FCC to Public Safety Spectrum Trust

for development of nationwide broadband interoperable public safety network;

- Commission would limit participation in D Frequency Block auction to designated entities only.

- FCC would award D Frequency Block licenses according to CMA markets.
- Commission would adopt same performance standards for D Frequency Block as imposed upon other 700 MHz licenses.

- FCC would repeal restriction against wholesaling by designated entities of more than a certain percentage of their respective spectrum.

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COMMENTS OF SPECTRUM ACQUISITIONS, INC.

Spectrum Acquisitions, Inc.[1] submits these comments in response to the Commission's Second Further Notice of Proposed Rulemaking in the above-captioned dockets. SAI commends the FCC for its attempt to establish both a

[1] Spectrum Acquisitions, Inc. (***SAI***) is a Delaware corporation formed to purchase, construct and operate 700 MHz Band licenses. As a prospective purchaser and operator of such licenses, it has an interest in the Federal Communications Commission's (***FCC*** or ***Commission***) resolution of several of the issues raised in its *Second Further Notice of Proposed Rulemaking*, WT Docket No. 06-150, released May 14, 2008 (***Second FNPR***).

nationwide interoperable broadband public safety network and a funding mechanism. As discussed below, while SAI strongly supports such goals it believes that an alternative approach is more likely to achieve the Commission's stated policy goals.[2]

Under such alternative approach, Sprint Nextel Corporation would return all of its 800 MHz Band licenses to the FCC. In exchange for such transfer and Sprint Nextel's commitment to pay to the Public Spectrum Safety Trust (***PSST***) the difference between $2.5 billion and the amount it has expended with respect to reorganizing the 800 MHz Private Land Mobile Radio Band (***PLMRB***) to date, the FCC would relieve Sprint Nextel of any further obligation to fund 800 MHz rebanding and allow it to retain its nationwide license in the 1.9 GHz Band.

Subsequent to such transfer by the Sprint Nextel Corp. of all of its 800 MHz Band spectrum, the Commission would allocate 806-816 MHz/851-861 MHz for public safety and 816-819 MHz/861-864 MHz for critical infrastructure, Business and Industrial/Land Transportation and site-licensed SMR licensees. The FCC would allocate 819-824 MHz/864-869 MHz for EA-licensed SMR licensees.[3] Under this approach, public safety would be allocated 5 MHz of

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[2] ***Second FNPR***, at ¶ 5.

[3] To the extent that spectrum for EA-licensed SMR licensees remains available following the relocation of such licensees, the Commission would conduct a public auction the proceeds of which would be paid to the PSST. This proposal, as well as the proposed auction of certain 700 MHz Band spectrum presently

additional 800 MHz Band spectrum all of which would be in a single contiguous block.[4] This "public safety block" would provide the basis for a nationwide broadband interoperable public safety network.

Having received additional spectrum in the 800 MHz Band, public safety would return 6 MHz of spectrum in the 700 MHz Band to be reallocated for commercial broadband wireless and, together with the D Frequency Block, be awarded by a public auction. The proceeds of this auction of 16 MHz of 700 MHz Band spectrum would be paid by the FCC to the PSST.[5]

SAI believes that the results of Auctions #66 and #73 provide compelling evidence that absent additional incentives new entrants largely will be excluded from the broadband wireless industry.[6] As a result, it favors not only awarding the 16 MHz commercial license according to the CMA markets but also pursuant

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allocated to public safety as well as the D Frequency Block, assumes that Congress amends the Communications Act of 1934, as amended (***Act***), to direct the proceeds of such auction to be paid to the PSST for the development of a nationwide broadband interoperable public safety network.

[4] This figure assumes that on average public safety would be allocated a total of 7.5 MHz of paired 800 MHz Band spectrum under the FCC's present rebanding approach.

[5] *See* n.3 *supra*.

[6] *See* Council Tree Communications, Inc., Reply Comments, WT Docket No. 06-150 (October 20, 2006), at pp. 6-11; Council Tree Communications, Inc., Comments, WT Docket No. 06-150 (September 19, 2006), at pp. 5-10; National Telecommunications Cooperative Association, Comments, WT Docket No. 06-150 (September 29, 2006), at pp. 8-11; Organization for the Promotion and Advancement of Small Telecommunications Companies, Comments, WT Docket No. 06-150 (September 29, 2006), at pp. 3-4; and Council Tree Communications, Inc., Ex Parte Presentation, WT Docket No. 06-150 (March 2, 2007).

to a "set-aside" of such licenses only for designated entities (***DE***). To minimize, if not eliminate, the abuses previously experienced with respect to such entities, SAI proposes a modification of the Commission's present DE rules.

I. BACKGROUND

Both the Congress and the FCC have long recognized the need to develop a nationwide broadband interoperable public safety network. To address such need several years ago Congress mandated that the FCC allocate 24 MHz of 700 MHz Band spectrum for public safety. However, since spectrum award neither Congress nor the Commission has provided a viable means of developing such a network on a nationwide, or even regional, basis.

Earlier this year the FCC sought to address this pressing issue by awarding the D Frequency Block--10 MHz of 700 MHz Band spectrum—on a nationwide basis to a commercial entity. Such spectrum then would be coupled with the 10 MHz of 700 MHz Band spectrum held on a nationwide basis by the PSST to form a Public/Private Partnership. Under the Commission's approach, this Partnership was to provide a nationwide broadband network within ten years. The reserve price asked by the FCC was $1.3 billion. The only bid received during FCC Auction #73 for such license was approximately twenty-five percent (25%) of the reserve price.

The reasons for the failure of the D Frequency Block license to attract significant bids include:

- economic uncertainty;
- lack of defined public safety requirements until after D Frequency Block awarded and negotiation between D Frequency Block winner and the PSST are approved by the Commission;
- uncertainty of the cost of the infrastructure build out until #2 is resolved;
- the reported requirement that the D Frequency Block licensee pay $500 million over a ten-year period in addition to paying for the infrastructure build out and equipment; and
- uncertainty how preemption of commercial traffic on the D Frequency Block and public safety portion of the Public/Private system would occur during an emergency.

Following the failure of the D Frequency Block license to attract significant bids in FCC Auction #73, the FCC has requested comments with respect to proposed changes that would render the Public/Private Partnership approach viable or, alternatively, an approach that would more likely would achieve the Commission's goals of developing a nationwide broadband

interoperable public safety network and a funding mechanism for its construction and operation.[7]

II. DISCUSSION

SAI believes that the FCC's policy goals cannot be achieved without considering both the 700 and 800 MHz Bands. These two Bands are to be interoperable. However, under the Commission's present rules the 700 MHz Band has a 30 MHz separation between base transmitters and mobile transmitters while 800 MHz Band spectrum has a 45 MHz separation.

To be interoperable with 700 MHz, the present 800 MHz radios will have to be modified to provide 30 MHz separation or 700 MHz radios will need 45 MHz separation. In many cases where 800 MHz MDT's are used in conjunction with voice and location data long waiting times are required.

The 800 MHz PLMRB presently is being reorganized due to interference experienced by public safety systems from Sprint Nextel and certain cellular operators. This interference is due largely to the low height sites used by Sprint Nextel which simultaneously use a large number of channels. This combination tends to overload and desensitize nearby portable and mobile radios. The reconfiguration cost of approximately $3 billion is to be borne by Sprint Nextel.

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[7] ***Second FNPR***, at ¶ 6.

The reconfiguration effort is well behind the three-year schedule initially established by the FCC. Many of the licensees in the lower portion of the PLMRB (the former General category Channels) have been moved. However, only a relatively few of the NPSPAC licensees have been moved to the new NPSPAC Band. Apparently, it will take a significantly longer time and cost far more than was originally anticipated to complete the reconfiguration process.[8]

SAI believes that the solution to both the 800 MHz rebanding process and the development of a funded nationwide broadband interoperable network is the following:

- Sprint Nextel Corp. transfers all of its 800 MHz licenses to the Commission, which in turn will reorganize the PLMRB as follows—
  - 806-816 MHz/851-861 MHz: public safety;
  - 816-819 MHz/8861-864 MHz: critical infrastructure, Business and Industrial/Land Transportation and site-licensed SMR; and
  - 819-824 MHz/864-869 MHz: EA-Licensed SMR.
- Sprint Nextel Corp. would pay the PSST the difference between $2.5 billion and the amount it has expended so far with respect to 800 MHz reconfiguration;

[8] *See* Sprint Nextel Waiver Request, WT Docket No. 02-55 (June 17, 2008); Order, WT Docket No. 02-55 (released June 19, 2008).

- FCC would allow Sprint Nextel Corp. to retain 10 MHz of 1.9 GHz Band spectrum;
- 6 MHz of 700 MHz Band previously allocated to public safety would be returned to Commission and reallocated for commercial broadband wireless; this spectrum would be contiguous and added to D Frequency Block spectrum;
- Public safety broadband mobile data systems would be relocated to 700 MHz Band spectrum;
- Interoperability would be provided both in and between Public Safety Block and High-Site and High Power Blocks;
- As public safety needs increase and other non-essential licenses expire, these other licenses could be relocated to another Band;
- Commission would award 16 MHz of 700 MHz Band spectrum pursuant to public auction; proceeds of such auction would be transferred by FCC to PSST to be used to develop a nationwide broadband interoperable public safety network; and
- Public safety spectrum (18 MHz) in the 700 MHz Band would be used for wideband, broadband and associated voice interoperability.

Based on the results of FCC Auction #73, SAI anticipates that the expanded D Frequency Block could generate as much as $5 billion in net winning

bids. As noted above, vacant 819-824 MHz/864-869 MHz also could be auctioned and thereby provide additional funds to be transferred to the PSST. Finally, Sprint Nextel could contribute the difference between its $2.5 billion rebanding funding commitment and the amount it has expended to date. Based upon the above, a considerable portion of the build out cost of a nationwide broadband interoperable public safety network would be available.

With respect to the auction's rules, SAI believes that it is important that the FCC ensure that new entrants will participate meaningfully both in the auction and in the broadband wireless industry. As several commenters have noted, the use of small geographic markets and bidding credits recently has proved insufficient to ensure that designated entities or other new entrants become licensees.[9] As a result and to provide a competitive counterweight to the domination of FCC Auctions #66 and #73 by the largest wireless operators, SAI supports the set aside of the expanded D Frequency Block license for designated entities or "entrepreneurs" only.

With respect to the other auction rules necessitated by allocating the expanded D Frequency Block for commercial broadband wireless, SAI would

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[9] See Council Tree Communications, Inc., Comments, WT Docket No. 06-150 (September 29, 2006), at pp. 11-13; Council Tree Communications, Inc.., Reply Comments, WT Docket No. 06-150 (October 20, 2006), at pp. 3-6. *See also Implementation of Section 309(j) of the Communications Act—Competitive Bidding*, Fifth Memorandum Opinion and Order, 10 FCC Rcd 403, 414-15 (1994).

favor the use of CMA markets as the geographic market areas. Such market areas should provide both new entrants and rural wireless carriers with the maximum opportunity to win valuable 700 MHz Band spectrum.

SAI also favors the same performance requirements for the D Frequency Block as for the other 700 MHz licenses, a ten-year license term and the repeal of the prohibition against designated entities wholesaling more than a specified percentage of their spectrum.

III. CONCLUSION

SAI believes that its alternative proposal meets the policy goals articulated by the FCC in the ***Second FNPR***. As noted above, it strongly supports the development of a funded nationwide broadband interoperable public safety network. However, it believes that by having Sprint Nextel Corp. vacate all of its 800 MHz Band licenses and reallocating such vacated spectrum largely to public safety in exchange for allowing that company to retain its 10 MHz nationwide license in the 1.9 GHz Band and having public safety return 6 MHz of 700 MHz Band spectrum to be added to the D Frequency Block and allocated for commercial broadband wireless through a public auction the proceeds of which would be paid by the FCC to the PSST, such policy goals can be achieved

considerably sooner and less expensively than through the Public/Private Partnership approach.

Moreover, SAI's alternative approach also meets the Commission's goals completing the 800 MHz rebanding process and thus mitigating, if not eliminating interference with public safety systems in the 800 MHz PLMRB as soon as possible. Finally, adoption of such approach's recommendations with respect to the D Frequency Block auction's rules would ensure the meaningful participation of new entrants and competition in the nascent broadband wireless industry.

Respectfully submitted,

SPECTRUM ACQUISITIONS, INC.

By: /s/ Richard A. Cracroft
Executive Vice-President

EXHIBIT A

800 MHz (SMR) SPECTRUM REBANDING

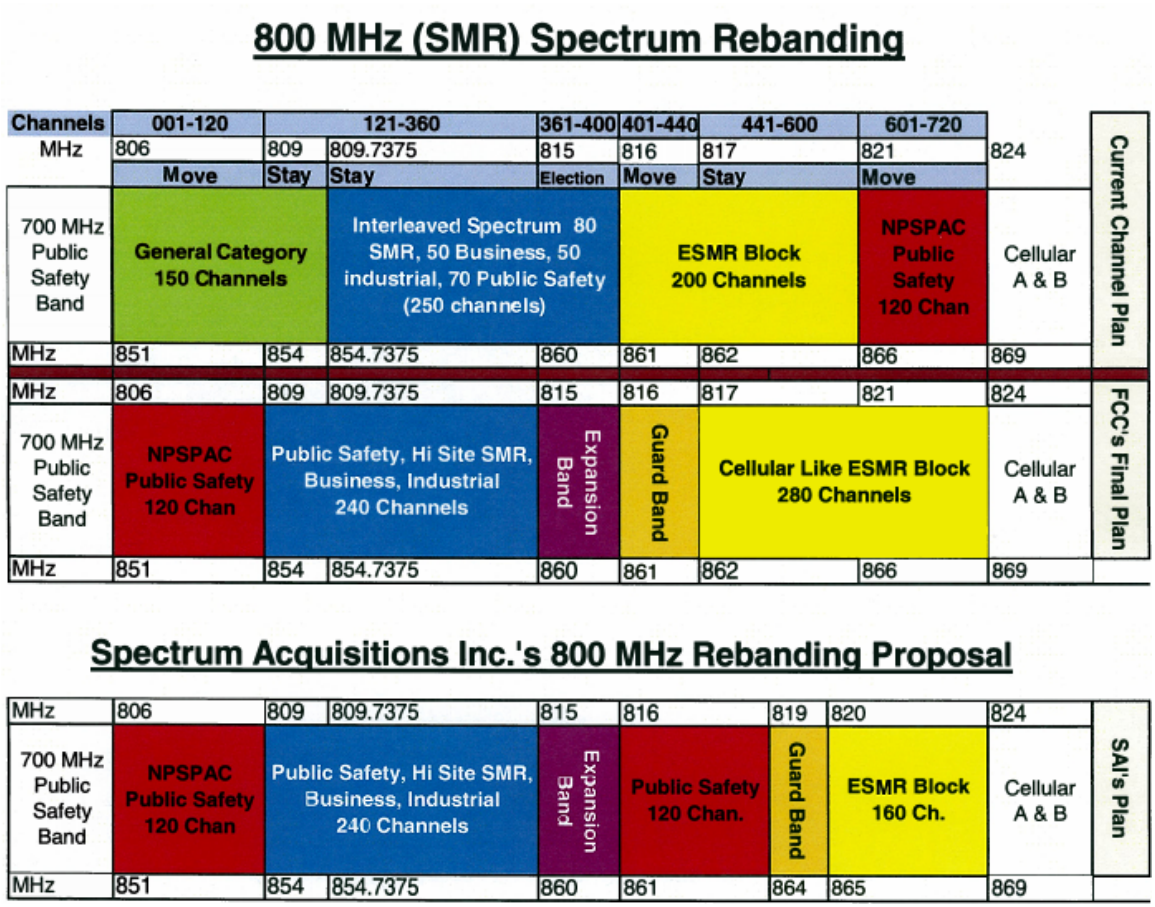
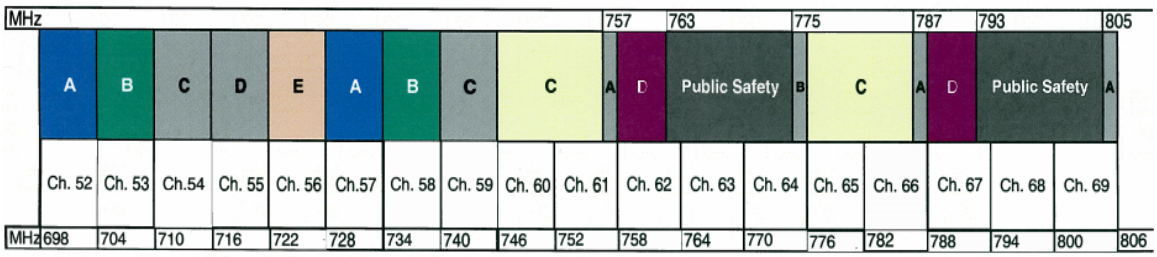


Exhibit B

700 MHz BAND PLAN

Present 700 MHz Band Plan



SAI's 700 MHz Band Proposal